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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: J.A. Pinkney et al.

Attorney Docket No.: LAMA114491

Application No.: 09/407,133

Group Art Unit: 2342

Filed: September 27, 1999

Examiner: Shuwang Liu

Title: HIGH-SPEED INDOOR WIRELESS CHIRP SPREAD SPECTRUM DATA
LINK

DECLARATION OF SPENCE T. NICHOLS UNDER 37 C.F.R. § 1.131

Seattle, Washington 98101

RECEIVED

June 9, 2004

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TO THE COMMISSIONER FOR PATENTS:

Technology Center 2600

I, Spence T. Nichols, hereby declare and state as follows:

1. I am an applicant and joint inventor of the subject matter described and claimed in U.S. Patent Application No. 09/407,133 (hereinafter "the present application"). I am also a named co-author of the article "High-Speed DQPSK Chirp Spread Spectrum System for Indoor Wireless Applications," *Electronics Letters*, vol. 34, no. 20, pp. 1910-11, October 1, 1998 (hereinafter the "Electronics Letters article"), which is referenced later herein.

2. The present application was filed on September 27, 1999. In an Office Action dated January 2, 2004 of which I am aware, Claims 1-3, 5-6, 8-9, 11, and 13 of the present application were rejected under 35 U.S.C. § 103(a) based on Gugler et al., "Simulation of a SAW-Based WLAN Using Chirp- $\pi/4$ DQPSK Modulation", *Proceedings of the IEEE Ultrasonics Symposium '98*, pp. 381-384, October 1998, in view of one or more other references (Koslar, Huemer, and Matsui). This declaration is provided to overcome the prior art rejection based on the Gugler et al. reference (hereinafter "Gugler"), by proving invention of the claimed subject matter by me and John A. Pinkney prior to the effective date of the Gugler reference. The Gugler reference was published,

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at the earliest, on October 5, 1998, in connection with the 1998 IEEE International Ultrasonics Symposium held in Sendai, Japan on October 5-8, 1998.

3. Although I am now retired, I was working for Telecommunications Research Laboratories, the assignee of the present application, at the time the invention in the present application was made. I hereby attest and confirm that John A. Pinkney and I conceived the subject matter claimed in Claims 1-3, 5-6, 8-9, 11, and 13, and reduced to practice an embodiment of said subject matter prior to October 1998. Attached to my declaration is a copy of the *Electronics Letters* article, published October 1, 1998, which evidences our complete conception and reduction to practice of the claimed invention prior to the earliest effective date of the Gugler reference. I further attest that our conception of the subject matter claimed in Claims 1-3, 5-6, 8-9, 11, and 13 was followed by due diligence on our part from a date prior to October 1998 to the filing of the present application on September 27, 1999. We prepared and filed a corresponding patent application the same day in Canada under Application No. 2,283,598.

4. Notwithstanding the authorship set forth in the *Electronics Letters* article, the subject matter claimed in the present application that is coextensive with the *Electronics Letters* article was conceived solely by me and/or coinventor John A. Pinkney, and not by the other named co-authors of the *Electronics Letters* article.

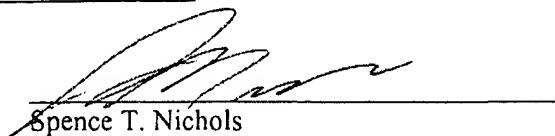
5. Neither the Gugler reference nor the *Electronics Letters* article were published more than one year prior to the filing date of the present application. The *Electronics Letters* article is provided to establish our earlier conception and reduction to practice of an embodiment of our invention, and does not limit the scope of the claims in the present application. The reduction to practice of our invention documented in the *Electronics Letters* article was completed in Canada.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true and, further, that these statements

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were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

DATED this 09 day of JUNE, 2004.



Spence T. Nichols

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